

Praying for Rain – When?

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The ninth *b'rakhah* of the weekday *t'filah*, *birkat hashanim* (“Blessed are You... Who blesses the years”), is the communal prayer for economic sustenance and prosperity. In this *b'rakhah* Jews traditionally insert the petition *v'ten tal umatar* (ותן טל ומטר), “grant dew and rain for a blessing upon the earth.” We should distinguish this prayer for rain – שאלת גשמים, *sh'elat g'shamim* – from the phrase *mashiv haruah umorid hagashem* (“Who causes the wind to blow and the rain to fall”) – which isn't technically a prayer but rather a “mentioning” (*hazkarah*) of God's power (*g'vurah*) to bring rain and is inserted into the second *b'rakhah* of the *t'filah* (*g'vurot*). Both “prayer” and “mentioning” are recited only during the rainy season.

Mishnah Ta'anit 1:1

מאימתי מזכירין גבורת גשמים? רבי אליעזר אומר: מיום טוב הראשון של חג; רבי יהושע אומר: מיום טוב האחרון של חג.
אמר לו רבי יהושע: הואיל ואין הגשמים אלא סימן קללה בחג למה מזכיר?
אמר לו רבי אליעזר: אף אני לא אמרתי לשאול אלא להזכיר משיב הרוח ומוריד הגשם בעונתו. אמר לו: אם כן לעולם יהא מזכיר.

From when do we begin mentioning God's power to bring rain? Rabbi Eliezer says: on the first *yom tov* of the festival (= first day of Sukkot); Rabbi Yehoshua says: on the last *yom tov* of the festival (= Sh'mini Atzeret).

Rabbi Yehoshua said to him: since rain during the festival is a sign of misfortune, why should one mention it at that time?

Rabbi Eliezer answered: I didn't say that one should pray for rain at that time but simply to mention *mashiv haruah umorid hagashem* at its proper season.

Rabbi Yehoshua responded: in that case, one would recite that phrase all year long.¹

The *halakhah*, say the commentators, follows Rabbi Yehoshua, and thus is our practice today.

Mishnah Ta'anit 1:2

אין שואלין את הגשמים אלא סמוך לגשמים.
רבי יהודה אומר העובר לפני התיבה ביום טוב האחרון של חג האחרון מזכיר הראשון אינו מזכיר;
ביום טוב הראשון של פסח הראשון מזכיר האחרון אינו מזכיר.
עד אימתי שואלין את הגשמים? רבי יהודה אומר עד שיעבור הפסח; רבי מאיר אומר עד שיצא ניסן שנאמר (יואל ב') ויורד לכם גשם מורה ומלקוש בראשון.

¹ According to a *baraita* in *B. Ta'anit* 2b, which presents an expanded version of this debate, R. Eliezer responds in agreement: one may say *mashiv haruah*, etc. even during the summer. But how does this fit with his statement that one should mention the power of rain “at its proper season?” He responds: just as we mention God's power of resurrection (*t'hiyyat hametim*) all year long even though it will only happen at its proper time, we can do the same with the power of rain.

We do not pray for rain [or mention the power of rain²] except during [literally: “close to”] the rainy season.

Rabbi Yehudah says: On Sh’mini Atzeret, the one who leads *musaf* mentions the power of rain, while the one who leads *shaharit* does not; on the first day of Pesah, the one who leads *shaharit* mentions it, while the one who leads *musaf* does not.

Until when do we pray for rain? Rabbi Yehudah says: until the end of Pesah; R. Meir says, until the end of Nisan, as it is said (Joel 2:23): “[God] has brought down the rain for you, the early rain and the latter rain, in the first [month, i.e., Nisan]”

The accepted *halakhah*, as we’ll see, is to cease both mentioning and praying for rain on the first day of Pesah. The only detail remaining is the date on which we begin to pray for (as opposed to “mention”) rain. That’s the subject of the following *mishnah*.

Mishnah Ta’anit 1:3

בשלשה במרחשון שואלין את הגשמים רבן גמליאל אומר בשבעה בו חמשה עשר יום אחר החג כדי שיגיע אחרון שבישראל לנהר פרת.

One begins praying for rain on the third of Heshvan.

Rabban Gamliel says: on the seventh of Heshvan, fifteen days after the end of the festival, so that the last of the returning pilgrims can reach the Euphrates.

“The rainy season” mentioned in the previous *mishnah* is determined according to the climate prevailing in Eretz Yisrael. The third of Heshvan is, according to some opinions, the date on which the rains normally begin there.³ Rabban Gamliel is in broad agreement with the timing, but he adjusts the date in the hope that the rains do not come early and interrupt the pilgrims’ return journey to Babylonia.

Moving now to the Talmud:

B. Ta’anit 10a

אמר רבי אלעזר : הלכה כרבן גמליאל. תניא, חנניה אומר : ובגולה עד ששים בתקופה. אמר רב הונא בר חייא אמר שמואל : הלכה כחנניה.

R. Elazar said: the *halakhah* is according to Rabban Gamliel.

A *baraita*: Hananiah says: in the *golah* one begins to pray for rain sixty days following the autumnal equinox (*t’kufat Tishri*).

Rav Huna bar Hiyya said in the name of Shmuel: the *halakhah* is according to Hananiah.

Rashi

בגולה אין שואלין עד ששים בתקופה, לפי שהוא מקום נמוך, ואין צריכים מטר כל כך.

² The word שואלין means “to petition,” but the *mishnah* clearly deals with “mentioning.”

³ See *B. Ta’anit* 6a.

In the *golah* [= Babylonia] they don't pray for rain until 60 days following the equinox, because it is a lowland and rain is not as necessary there (as in Eretz Yisrael).

The word גולה (*golah*) is often rendered as “the Diaspora,” that is, anywhere outside the land of Israel. We translate it here as “Babylonia” because, as we see from Rashi's comment, this text refers specifically to the geography and climate of that land. But what about those areas within Babylonia where the agricultural and climatic conditions differ? That's the subject of the following passage.

B. Ta'anit 14b

שלחו ליה בני נינוה לרבי: כגון אנן, דאפילו בתקופת תמוז בעינן מטרא, היכי נעביד?
כיחידים דמינן או כרבים דמינן?
כיחידים דמינן - ובשומע תפלה, או כרבים דמינן ובברכת השנים?
שלח להו: כיחידים דמיתו, ובשומע תפלה.
מיתבי, אמר רבי יהודה: אימתי - בזמן שהשנים כתיקנן וישראל שרוין על אדמתו, אבל בזמן הזה -
הכל לפי השנים, הכל לפי המקומות, הכל לפי הזמן!
אמר ליה: מתניתא רמית עליה דרבי? רבי תנא הוא ופליג.
מאי הוי עלה? רב נחמן אמר: בברכת השנים, רב ששת אמר: בשומע תפלה.
והלכתא: בשומע תפלה

The Jews of Nineveh sent a *sh'elah* to Rabbi (Yehudah Hanasi): how should people like us, who need rain even during the summer, observe the *halakhah* of the prayer for rain? That is to say: are we to be compared to individuals (*y'hidim*), who would insert this request into the blessing *shome`a t'filah*, “Who hears prayer?”⁴ Or are we to be compared to a community/public (*rabim*), who would insert it into *birkat hashanim*, “Who blesses the years?”

He responded to them: you are analogous to individuals, so you would make this request in *shome`a t'filah*.

A refutation is raised (against Rabbi) from the following *baraita*.

R. Yehudah said, “When do these rules (the order of fasts) apply? When the seasons fall in their proper order (sowing in Heshvah, harvesting in Nisan) and the people of Israel live upon their land. But nowadays – the order is set according to the years, the location, and the season!”

The response: are you contradicting Rabbi on the basis of a *baraita*? Rabbi is a Tanna and is entitled to disagree with a *baraita*.

So what's the answer?

Rav Nahman said: (it belongs in) *birkat hashanim*; Rav Sheshset said: (it belongs in) *shome`a t'filah*.

And the *halakhah* is: (it belongs in) *shome`a t'filah*.

Taken together, the Jews of Babylonia are a single public (*rabim*) and therefore offer their prayer for rain during the winter months in *birkat hashanim*. The Jews of any single district within

⁴ While the prayer of the community (*rabim*) is a fixed text, the individual (*yahid*) who wishes to add petitions and supplications of his/her own does so in the sixteenth *b'rakhah*, *shome`a t'filah*, or following the *t'filah* in the section called *tahanun*. See B. *B'rakhot* 31a; B. *Avodah Zarah* 7b; and Rambam, *Hil. T'filah* 6:2-3.

Babylonia have the status of individuals (*y'hidim*), which means that, should they require rain at any other time of the year, they must insert their prayer into the blessing *shome'a t'filah*.

So much for Nineveh and, indeed, for Babylonia. But according to the predominant view in the codified *halakhah*, the word *golah* in this text includes the entire Diaspora. As we read in *Shulḥan Arukh (Orah Ḥayyim 117:1-2)*:

ברכת השנים, צריך לומר בה בימות הגשמים : ותן טל ומטר, ומתחילין לשאול מטר בחוצה לארץ בתפלת ערבית של יום ס' אחר תקופת תשרי, ויום התקופה הוא בכלל הסי' ובארץ ישראל מתחילין לשאול מליל ז' במרחשון, ושואלין עד תפלת המנחה של ערב יום טוב הראשון של פסח, ומשם ואילך פוסקין מלשאול. יחידים הצריכים למטר בימות החמה, אין שואלין אותם בברכת השנים, אלא בשומע תפלה, ואפי' עיר גדולה כנינוה או ארץ אחת כולה כמו ספרד בכללה, או אשכנז בכללה, כיחידים דמו בשומע תפלה...

The prayer for rain – “bestow dew and rain upon the face of the earth” – must be said during the rainy season in the *b'rakhah* “Who blesses the years.”

In the Diaspora (*b'ḥutzah la'aretz*), this recitation begins during the *aravit* prayer of the 60th day following the autumnal equinox, with the day of the equinox included in this count. In Eretz Yisrael, the recitation begins on the night of the 7 Ḥeshvan. It continues until *minḥah* on Erev Pesah. From then on, one ceases to recite this prayer.

Individuals (*y'hidim*) who need rain during the summer months do not insert this prayer into “Who blesses the years” but into “Who hears prayer.” Even a great city like Nineveh, or an entire country such as Spain or Ashkenaz (Germany) are compared to individuals and thus insert the prayer into “Who hears prayer.”

That's the prevailing practice today. And it gives rise to two important questions.

First, if Diaspora Jews begin praying for rain on the sixtieth day following the autumnal equinox, why do traditional *siddurim* instruct us to begin reciting *v'ten tal umatar* on December 4 or 5 rather than on November 22? The answer: the *halakhic* equinox (*t'kufat Tishri*) is set according to the calendar of the amora Shmuel (3rd Century). That calendar is equivalent to the Julian calendar, which has since been replaced in the Western world by the calendar proclaimed in 1582 by Pope Gregory XIII. To find the equivalent date on the Gregorian calendar, you add ten days to the old Julian date. Thus, November 22 (Julian/Shmuel) becomes December 2 on the Gregorian calendar. Further adjustments to the calendar (to account for leap years) have moved the date to December 4 and 5, at least during this century.

Second, the *p'sak* of the *Shulḥan Arukh* notwithstanding, does Rabbi's answer to the Jews of Nineveh truly apply to the entire Diaspora? At least two prominent *rishonim* hold that Diaspora communities should pray for rain in *birkat hashanim* according to their local climatic conditions. The first of these is Rambam, in his *Commentary to M. Ta'anit 1:3*:

אבל בשאר הארצות הרי תהיה השאלה בזמן הראוי לגשמים באותו המקום, והרי אותו הזמן כאלו הוא שבעה במרחשון, ואם נתאחרו הגשמים אחרי אותו הזמן לפי יחס זמנים אלו האמורים כאן, הרי אלו מתענים כמו שזכר כאן, לפי שיש ארצות שאין זמן הגשמים מתחיל אלא מניסן, ויש ארצות שבמרחשון יהיה בהם קיץ, ואין הגשמים בו לברכה אלא מאבד ומשמיד, ואיך ישאלו אנשי אותו המקום גשמים במרחשון, האם אין זה שקר? זה דבר נכון וברור.

In lands outside of Eretz Yisrael, the prayer for rain should be recited during the rainy season in that location. That season is considered equivalent to 7 Heshvan. And should the rains be delayed after the beginning of that season, the residents of that place should fast in accordance with the schedule of fasts noted in the Mishnah for Eretz Yisrael. This is so, because there are lands where the rainy season begins in Nisan, and there are lands where Heshvan falls during the summer, so that rain at that time is destructive. Why then should the local residents pray for rain in Heshvan; would that not be tantamount to a lie? This is clearly the proper conclusion.

Rambam's argument reflects a *purposive interpretation* of the laws surrounding *birkat hashanim*.⁵ Since the *purpose* of the blessing is to allow communities to beseech God for prosperity, then they ought to pray for rain when they need it, during the season in which the rains fall in any particular location.⁶ To pray for rain at a time that is inappropriate for one's locale is to utter a falsehood before God. As a matter of common sense Rambam's argument is quite persuasive. Unfortunately, it fails to address explicitly the passage in *B. Ta'anit* 14b, which can be read (as the *Shulhan Arukh* reads it) as a requirement that all Jews outside the land of Israel follow the Babylonian agricultural calendar when praying for rain. And indeed, when he comes to codify the *halakhah* in his later work, *Mishneh Torah Hilkhot T'filah* 2:16-17, Rambam seems to adopt that reading of the passage:

משבעה ימים במרחשון שואלין את הגשמים בברכת שנים כל זמן שמזכיר הגשם, במה דברים אמורים בארץ ישראל אבל בשנער ובסוריא ובמצרים ובמקומות הסמוכות לאלו והדומין להן שואלין את הגשמים ביום ששים אחר תקופת תשרי.
מקומות שהן צריכין לגשמים בימות החמה כגון איי הים הרחוקים שואלין את הגשמים בעת שהן צריכין להן בשומע תפלה.

The prayer for rain is inserted into *birkat hashanim* ("Who blesses the years") beginning on 7 Heshvan for the duration of the time that one mentions the power of rain (in *birkat g'vurot*, "*mashiv haruah umorid hagashem*," i.e., until Pesah). This is the rule that applies to Eretz Yisrael. But in Babylonia, Syria, Egypt, and in places near to them and that resemble them, the prayer for rain is recited beginning on the 60th day following the autumnal equinox.

Places such as the distant islands that need rain during the summer months pray for rain when they need it in the blessing *sjome`a t'filah*, "Who hears prayer."

Did Rambam change his original opinion, the one expressed in his *Commentary*? If so, was it because he failed to convince other halakhists of his point of view, so that he thought it better, in his Code, to fall into line with the majority position? Perhaps, though the matter of how to parse

⁵ On purposive interpretation see "Is It Really a *Mitzvah* to Get Drunk on Purim?", https://www.freehofinstitute.org/uploads/1/2/0/6/120631295/adloyada_and_progressive_halakhah.pdf, p. 8 and notes 26 and 27.

⁶ On the other hand, one can imagine other purposes. Perhaps the *b'rakhah* has all Diaspora Jews pray for rain in accordance with the climate of Babylonia because, as the home of the *Talmud Bavli*, that country serves as a "spiritual homeland" for the Jewish people. See E. Munk, *Olam Hat'filot* (Jerusalem: Mosad Harav Kook, 1988), v. 1, p. 143. That strikes us as a weak argument, which demonstrates just how hard it is to justify the codified *halakhah* on this point.

the apparent contradictions within and between Rambam's halakhic writings remains a live question to this day.⁷

The second authority to question the widely accepted practice is R. Asher b. Yeḥiel (Rosh), who was born in Ashkenaz and migrated to Spain, where he taught for over two decades until his death in 1327. Like Rambam in the *Commentary to the Mishnah*, he makes a common-sense argument that Jews ought to follow their local climate in deciding when to recite *וּתְנִי טַל וּמָטָר*. But unlike Rambam, Rosh deals explicitly with the Talmudic texts that apparently oblige all Jews to follow the calendar of Babylonia:⁸

על כי שמעתי כי יש תמהים על דברי באתי לפרש מה שאמרתי שאין ראוי לפסוק מלהזכיר ולשאול עתה ביום טוב הראשון של פסח. ולא מן כדו אלא מכבר ימים רבים באשכנז נתרעמתי על שני דברים, שראיתי שנוהגים בימים הללו. האחד שאינן שואלים הגשמים כתיקון. ואף על גב דאמרינן בפרקא קמא דתענית (דף י) תניא חנניא אומר ובגולה עד ס' יום לתקופה, ואמר רב הונא בר חייא אמר שמואל הלכה כחנניה. ואנן בכל מילתא אזלינן בתר חכמי בבל ועבדינן כוותייהו היכא דפליגי אהדדי חכמי בבל וחכמי ארץ ישראל דתלמוד בבל חשבינן עיקר, ה"מ בדבר איסור והיתר וחיוב ופטור טומאה וטהרה. אבל דבר התלוי בצורך השעה ואין בו שינוי לעבור על דברי תורה ראוי לילך אחר השנים והמקומות והזמן.

Since I have heard that some are puzzled by my opinion, I want to explain it here: namely, that it is not proper to cease praying for rain on the first day of Pesah. I did not come to this position recently; indeed, long ago in Germany I loudly protested against two practices that were observed during this season.

The first is that the people did not pray for rain at the proper time. True, we read (*B. Ta'anit* 10a) that "Ḥananiah says: in the Diaspora (*golah*) one begins to pray for rain sixty days following the autumnal equinox (*t'kufat Tishri*), [and] Rav Huna bar Ḥiyya said in the name of Shmuel: the *halakhah* is according to Ḥananiah." And it is also true that we follow the *Talmud Bavli* wherever it disagrees with the *Talmud Yerushalmi*, for our Talmud [= the Bavli] is halakhically authoritative. But this rule applies specifically to matters of ritual, monetary, and purity law, whereas on matters that pertain to the needs of the hour and that do not involve a violation of Torah law, it is proper to rule according to the years, geography, and seasons.

This point is significant and deserves emphasis. Rosh could have supported his position exclusively with a "local" interpretation, namely that the word *golah* in *B. Ta'anit* 10a refers specifically to "Babylonia" and that other regions may therefore operate according to their own needs. In fact, he does this below. But here he makes the wider argument that the *Talmud Bavli*, even if it is the supreme source of the *halakhah*, does not control every aspect of our religious practice. There are issues that *we*, on the basis of our own best judgment, must decide for ourselves. Rosh specifically mentions issues dealing with "the years, geography, and seasons." We progressive halakhists would expand his insight to include all matters dependent upon science – that is, data and observation drawn from reality.

⁷ On the relationship between the Commentary and the Code and the apparent contradictions between them see Yuval Sinai, "בין פירוש המשנה לרמב"ם לבין משנה תורה: היקף חומר ההלכתי, שיטת המיון, והפיצול המושגי", *HUCA* 80 (2009), pp. כא-לז, and Yuval Sinai, "סתירות פנימיות מדומות בדברי הרמב"ם", in A. Ravitzky, ed., *הרמב"ם: שמרנות*, מהפכנות (ירושלים: מרכז שזר, 2009), pp. 155-198.

⁸ *Resp. Rosh* 4:10. What follows is the bulk of that responsum.

דבבל שוכנת על מים רבים ולא היו צריכין גשמים עד ס' לתקופה, או היה זמן הזרע מאוחר בבבל. אבל בארץ אשכנז שזמן הזרע הוא מחצי תשרי ואילך הדבר ידוע שאם לא ירדו גשמים מיד אחר הזרע שהוא מתקלקל שהעופות והעכברים יאכלוהו כלו למה לא נעשה כבני ארץ ישראל ששואלין הגשמים במרחשון כרבן גמליאל, כי בדבר הזה אין מחלוקת בין בני בבל ובין בני ארץ ישראל שיתנו אלו טעם לדבריהם שראויים לעשות כך ואלו נותנין טעם לדבריהם שראוי לעשות כמותן, אלא שבבבל היו עושים כפי הצריך להם, והמשנה (תענית א, ג) שאומרת ששואלין במרחשון נשנית בארץ ישראל כפי הצריך להם.

(The difference may be that) Babylonia is situated on great rivers and does not need the rains until sixty days after the equinox. Or perhaps the time for sowing was later in Babylonia. But in Germany, where sowing time begins in the middle of Tishri, it is well known that if the rains don't come immediately after the time of sowing the seed will be ruined, for birds and mice will consume it all. Why then can we not adopt the observance of Eretz Yisrael, who pray for rain in Heshvan in accordance with the opinion of Rabban Gamliel? For on this matter there is no dispute (*mahloket*) between the residents of Babylonia and of Eretz Yisrael: each group has good reasons for practicing as they do. The difference is simply that in Babylonia they practiced in accordance with their local requirement, while the Mishnah (*Ta'anit* 1:3) that says we should pray for rain in Heshvan was taught in Eretz Yisrael in accordance with *their* local requirement.

ואל תתמה אחר שכתבתי שאין מחלוקת ביניהם מה הוצרך שמואל לפסוק הלכה כחנניה, דיי"ל =דיש לומר = לפי ששנוי במשנה ר"ג אומר בז' במרחשון שואלים את הגשמים ואמר ר' אלעזר הלכה כר"ג, ה"א = הוה אמינא = אין לשנות בשום מקום ולעבור על דברי המשנה וכמו שפוסק ר' אלעזר. קא משמע לן שמואל שאין זה כעובר על דברי המשנה, שלבני ארץ ישראל נשנית המשנה כפי מקומם וכפי צרכם.

Since I say that there is no *mahloket* between the two regions, you may wonder: what induced Shmuel to declare the *halakhah* according to H̄ananiah? That's no problem, for we can respond that since Rabbi Elazar declares that the *halakhah* is according to Rabban Gamliel (*B. Ta'anit* 10a), we might have thought the Mishnah demands that *all* regions follow that practice. So Shmuel tells us that the Babylonian practice does not violate the Mishnah, which refers to the requirements of the residents of Eretz Yisrael.

H̄ananiah's decision in *B. Ta'anit* 10a, which holds that Jews in the *golah* begin praying for rain sixty days following the equinox, therefore applies exclusively to Babylonia and is calculated according to its climate and its agricultural calendar. That is to say Rosh translates the word *golah* here as "Babylonia" rather than as "the Diaspora" (*b'ḥutzah la'aretz*) as does the *Shulḥan Arukh*. If so:

השתא הדברים קל וחומר אם בני בבל עושים כפי מקומם וכפי צרכם שלא בשינוי המשנה כל שכן שבני אשכנז יעשו כפי צרכם בשינוי המשנה.

We draw a *kal vahomer*: if the Babylonians can practice according to their local requirement without violating the rule of the Mishnah, the residents of Germany can do the same.

Thus, the Jews of Germany need not wait until sixty days following the equinox to begin praying for rain. Now Rosh moves to the second question: must they *cease* praying for rain at Pesah?

והמנהג השני שנוהגין לפסוק מלשאל ולהזכיר ביום טוב הראשון של פסח, והדבר ידוע שבאשכנז עיקר קיום התבואה היא על ידי הגשמים שבין פסח לעצרת. והמשנה שאומרת שמפסיקין מיום טוב הראשון של פסח לבני ארץ ישראל נישנית כאשר הוכחתי ולהם היה קציר שעורים בפסח וגם החטים כבר עמדו בקמותיהם ואינן צריכין אלא להתיבש ולהתבשל עד עצרת ולכך הגשמים סימן קללה הם. אבל באשכנז שאי אפשר לתבואה להתקיים זולתי במטר שבין פסח לעצרת סימן ברכה הוא להם, ולמה לא נשאל ונזכיר עד עצרת, ודיני חזרה של מוריד הגשם יהיה להם מעצרת ואילך כמו לבני ארץ ישראל מפסח ואילך, כמו שהוכחתי שכל ארץ וארץ לפי צרכה שואלת ומזכרת. דכמו שארץ ישראל ובבל חלוקים במנהגם בשאלה והזכרה ואלו עושין לפי צרכן ואלו לפי צרכן הוא הדין שאר ארצות דמאי שנא?

The second incorrect practice is that in Germany they cease praying for rain and mentioning the power of rain (= *mashiv haruah*, etc.) on the first day of Pesah. It's well known that in Germany the produce can hardly survive without rain between Pesah and Shavuot. The Mishnah (*Ta'anit* 1:2) that tells us to cease on the first day of Pesah was taught with respect to the residents of Eretz Yisrael, as I have shown. There, the barley harvest took place at Pesah, and the wheat needed to dry out and ripen until Shavuot; thus, rain at that season was *siman k'lalah*, a curse. But in Germany, where the produce cannot survive without rain between Pesah and Shavuot, rain is *siman b'rakhah*, a blessing; why, then, should they not pray for rain and mention the power of rain from Pesah to Shavuot? And why shouldn't the rule about repeating the *t'filah* (should one recite *mashiv haruah* at the improper time) come into force for them at Shavuot, as it does in Eretz Yisrael at Pesah? For as I have shown, every land prays for rain and mentions the power of rain according to its own (agricultural) requirements, as is the case with Babylonia and Eretz Yisrael.

This is R. Asher's common-sense argument, much like that of Rambam in his *Commentary*: the prayer for rain is useless unless it fits the agricultural conditions of one's region. It's also a *halakhic* argument, contending that the Talmud itself (*B. Ta'anit* 10a) agrees that the schedule for reciting *v'ten tal umatar* is determined entirely by regional needs. But what about the *p'sak* of Rabbi, endorsed by the *s'tam Talmud* (*B. Ta'anit* 14b), that those in the *golah* who need rain during the summer months must pray for it in *shome'a t'filah*?

ועוד ראייה מהא (שם/תענית/ י"ד ב') דשלחו ליה אנשי נינוה לרבי כגון אגן דצריכי למטרא אפילו בתקופת תמוז כיחידים דמינן ובשומע תפלה אמרינן ליה או כרבים דמינן ובברכת השנים אמרינן ליה, שלח להם כיחידים דמיתו ובשומע תפלה, מיתבי אמר ר' יהודה אימתי בזמן שהשנים כתקנן וישראל שרויין על אדמתן אבל בזמן הזה הכל לפי השנים והמקומות והכל לפי הזמן, מתניי קא רמית עליה דרבי, רבי תנא הוא ופליג, אלמא דר' לא פליג אלא בבני עיר אחת, אבל ארץ אשכנז שהיא רחבת ידים מודה ר' דשואלין [כל זמן שהם צריכין וכיון ששואלין מפני הצורך כ"ש] שמזכירין דהזכרה נמי רצוי שאלה היא, דאמר ר' יוחנן כל זמן שהוא שואל הוא מזכיר.

A further proof: "The Jews of Nineveh sent a *sh'elah* to Rabbi (Yehudah Hanasi)" (*B. Ta'anit* 14b)...

We learn from this that Rabbi disagrees with the *baraita* only with respect to a single city. But in the case of a large country like Germany he would agree that its residents

should pray for rain whenever they need it. The same applies to mentioning the power of rain, for as R. Yoḥanan said: one recites *mashiv haruah umorid hagashem* throughout the period that one prays for rain.

As we've read this passage until now, the "community" (*rabim*) practice – that is, the standard that according to Rabbi the people of Nineveh must observe – was that of the entire Diaspora. But if, as Rosh reads it, "*golah*" here means Babylonia specifically, then Rabbi's *p'sak* says nothing about the practice of any other land. True, the residents of any particular region within, say, Germany may be required, like the residents of Nineveh, to follow the practice of their country as a whole. But that country could adopt a prayer schedule more suited to its own climate than to that of Babylonia.

R. Asher's arguments are ingenious, but he acknowledges they ran headlong into the established *minhag* of every country with which he became acquainted during the course of his travels.

כל אלו הדברים דנתי לפני רבותי באשכנז ולא היה אדם מערער לדברי, אלא שאמרו אין אנו צריכין לשנות המנהג באשכנז כי אין עצירת גשמים מצוי שם והרבה פעמים התבואה מתקלקלת מפני רוב הגשמים. כשיצאתי מאשכנז ועברתי דרך פרובינצא שמעתי במונפישליר שהיו מזכירים הגשמים בז' במרחשון וישר מאוד בעיני. ואמרתי לחכמי מונפישליר תרצתם לי קושיא אחת, ולענין הפסקה מה אתם עושין, ואמרו שעושין כמשנה מיום טוב הראשון של פסח פוסקים, אמרתי להם שמא אינכם צריכים מטר בין פסח לעצרת, אמרו לי שהרבה הם צריכים ואי אפשר לתבואה להתקיים בלא מטר. ואמרתי להם כל דברי כאשר הם כתובים למעלה וישרו מאד בעיניהם. אלא שאמרו מה שאנו שואלין בשבעה במרחשון כך הנהיגו חכמים הראשונים. ועל ההפסקה לא נוכל לעשות דבר בשנוי מנהג אם לא שיתקבצו חכמי הארץ, ויצאתי משם ולא ידעתי מה הסכימו לעשות.

I made these arguments to my teachers in Germany. None disputed me, but they replied that "we need not change the *minhag* here, because drought is not usually an issue, and frequently the crops spoil on account of too much rain." When I left Germany and travelled through Provence, I heard in Montpellier that they began praying for rain on 7 Ḥeshvan. I approved of this. I said to the sages of Montpellier: "You have answered one question for me, but when do you cease praying for rain?" They replied that they act in accordance with the Mishnah and cease praying for rain on the first day of Pesah. I asked them whether they needed rain between Pesah and Shavuot. They told me that they needed rain greatly at that time and that the produce could not survive without rain. I rehearsed for them all the arguments that I've written above. They found them quite persuasive, but they said: "We begin praying for rain on 7 Ḥeshvan because that's an ancient custom here. As for ceasing, we cannot change the established *minhag* without a decision from the sages of the entire region." I departed without knowing their decision.

Having failed twice to persuade his colleagues to change the local *minhag*, it's no wonder that Rosh was reticent to try again once he reached Spain. But he didn't lose hope.

ובבואי הנה ראיתי שיותר צריכין גשמים בין פסח לעצרת משאר מקומות. ואמרתי כמה פעמים לחברי שראוי היה שלא להפסיק מלשאול ולהזכיר עד עצרת. כי עתה אני יודע שכל הארצות שאני יודע עיקר גשמיהם הם בין פסח לעצרת ובודאי רבים נינהו. אלא שלא מלאני לבי לדבר כדברים הללו לשנות המנהג. ועתה שראיתי כי בעונותינו הגשמים נעצרו ונתקלקלו הזרעים ומתענין בשביל הגשמים ואף בשבתות וימים טובים שאין מתענין מזכירין שלש עשרה מדות ואומרים פסוקים של מטר. אמר לי לבי

עתה הגיע העת לתקן מה שנתאויתי זה ימים רבים כי בודאי שישמעו לך בעת צרה כזאת, ואם יקיימו עליהם בשנה הזאת יערב עליהם ולא ישובו ממנה.

When I arrived here (Spain), I saw that this county needed rain between Pesah and Shavuot more than did other places. Several times I argued to my colleagues that it would be a good thing for the people not to cease praying for and mentioning rain until Shavuot. For all the countries with which I am familiar are dependent upon rain between Pesah and Shavuot; they certainly count as “communities” (rather than as “individuals”). But I could not bring myself to urge them to change the *minhag*. Now I see that during the current drought, which has ruined the seed, (the community leaders) are fasting. And even on Shabbat and festivals, when one does not fast, they recite during the service the Thirteen Attributes along with Biblical verses concerning rain. I said to myself: “Now is the moment to bring about the change I have sought for so long, for surely at a time of distress like this they will listen to me. And if they institute the change this year, in all probability they will never revert to their old custom.”

But in addition to the existence of the local *minhag*, Rosh faces another obstacle: Rambam, the recognized leading halakhic authority among Spanish Jewry. As we’ve seen, Rambam in his *Commentary to the Mishnah* argues that communities should pray for rain in *birkat hashanim* whenever they need it, but he rules otherwise in his *Mishneh Torah*. Perhaps the ruling in the *Mishneh Torah*, because it is the later work, represents a change of mind from his *Commentary* and therefore Rambam’s final, “official” point of view. That would indeed constitute a difficulty for Rosh, who needs to show that Rambam in fact allows Jews in countries that need rain in the summer to pray for rain in *birkat hashanim*. He therefore proceeds to reconcile the two texts in his favor. After quoting them both verbatim, he writes:

ולפום ריהטא משמע שפירוש המשנה סותר מה שכתב בחבורו... והמדקדק בדבריו ימצאם מכוונים, כי בפיי המשנה כתב ארצות לפי שיש חלוק בין ארץ ישראל לבבל לענין שאלה והזכרה מזה נלמוד שאין נקראין רבים אלא ארץ אחת ואותם אומרים בזמן הצריך להם שאלה בברכת השנים. אבל בחבורו כתב ומקומות שהם צריכין גשמים בימות החמה כגון איי הים ואינם נקראים ארץ בפני עצמן הילכך כיחידים דמו ואומרים בשומע תפלה. והרי הוכחתי.

The *Commentary* apparently contradicts what he writes in his *Code*... But if you look closely at his words, you’ll find that both texts say the same thing. For in the *Commentary* he uses the word “lands” (*aratzot*), reflecting the distinction between Eretz Yisrael and Babylonia in the matter of praying for and mentioning rain, from which we learn that a “community” (*rabim*) is an entire land/country, whose residents pray for rain at the season in which they need it in *birkat hashanim*.

But in the *Mishneh Torah*, he writes: “Places (*m’komot*) such as the distant islands that need rain during the summer months” – “places,” because they do not constitute an entire “land.” Therefore, they are compared to “individuals” who recite the prayer for rain in the blessing “Who hears prayer.” QED.

According to this reading, Rambam holds that an entire country (ארץ), wherever it may be, is considered *rabim* and is entitled to pray for rain in *birkat hashanim* according to its own climate and agricultural conditions. On the other hand, localities (מקומות) too small to qualify as countries are *y’hidim* and, like all other “individuals,” must recite their petitions for rain in

shome`a t'filah. It's a creative interpretation of Rambam's ruling – perhaps, as we'll see, a bit too creative for Rosh's audience – but it suffices as a basis for his own conclusion:

והדבר ידוע שבאשכנז שהיא ארץ גדולה מאד וצרפת וכל הארצות שמאשכנז עד הארץ הזאת וזאת בכלל כלם צריכות מטר בין פסח לעצרת, ובודאי רבים הם ויכולים לשאול בברכת השנים ולהזכיר הגשמים כבני ארץ ישראל בחורף.

Since it is well known that Germany - a very large land - and France, and all the lands between Germany and (Spain) require rain between Pesah and Shavuot, they certainly should be compared to “communities” (*rabim*) who pray for rain in *birkat hashanim* and mention the power of rain at the same time as the residents of Eretz Yisrael.

Sound argument, however, doesn't always win the day:

ובראותי כי הטו את לב הקהל לבלתי קבל ממני דברי אלהים חיים גם אני חזרתי בי מלשאול ולהזכיר בבית הכנסת שאני מתפלל בו אף על פי שהייתי יכול לשאול אף על פי שאני יחיד כיון שצורך רבים הוא מכל מקום לא רציתי לעשות אגודות אגודות.

But when I saw that those who disagreed with me persuaded the community to reject my words, the words of the living God, I too ceased to [practice according to my opinion] in the synagogue where I pray. Even though I am but an individual, I could have prayed for rain in *birkat hashanim* [beyond Pesah] because such is the requirement of the entire community (*rabim*). Still, I did not wish to cause divisiveness and schism.⁹

Conclusion (and Some Suggestions). Rosh's *t'shuvah* did not gain acceptance,¹⁰ and the traditional practice remains as set forth in the *Shulhan Arukh* text, above. We think, however, that progressive *halakhah* is not bound by that *minhag*. True, we at the Freehof Institute are not in the business of making *p'sak*; for halakhic *decisions*, consult your rabbis and responsa/law committees. But we'd be remiss if we didn't offer the following thoughts.

First, it makes no sense to begin saying “*v'ten tal umatar*” on December 4 or 5. Rather, we should commence that prayer when the Talmud tells us to, on November 22 or 23. We calculate the seasons of the solar year today according to the Gregorian calendar, rather than the Julian calendar followed by Shmuel, because it is regarded as the more accurate of the two.¹¹ The proper date for *t'kufat Tishri* is therefore September 22 or 23, and sixty days from that date brings us to November 22 or 23.

⁹ אגודות אגודות, based upon a *midrash* on Deuteronomy 14:1; *B. Y'vamos* 14a.

¹⁰ “לא נתקבלו דבריו”; see *Beit Yosef* and *BaH to Tur, Oraḥ Ḥayyim* 117. The *Tur* himself quotes briefly from his father's responsum but does not rule in accordance with it.

¹¹ It's true, as some will no doubt object, that Pope Gregory XIII is not a *posek* for us. But then, neither is Julius Caesar. Besides, the reason either of those calendars was adopted originally is that both claimed to represent a scientifically accurate calculation of the solar year. When it comes to matter of scientific (i.e., in this case, astronomical, meteorological, and geographical) reality, we think the Rosh is correct: we ought to follow our own best understanding of the science rather than look for some formal halakhic precedent. The only reason to stick with the Julian calendar (as do a few Orthodox Christian sects) *against* reason and common sense is that it's “traditional.” Sorry, but that's simply not good enough for progressive halakhists.

Second, we ought to take seriously the *purpose* of *birkat hashanim*, which from the beginning was to enable people to pray for rain during the rainy season in their location. Both Rambam and Rosh argue this point persuasively. Moreover, the best reading of the two pivotal Talmudic passages that set the practice outside the land of Israel (*B. Ta`anit* 10a and 14b) shows that they speak specifically to Babylonia and not to the entire Diaspora. Rosh, at any rate, clearly agrees. It therefore makes no sense to obligate all Diaspora communities to follow the Babylonian custom regardless of their own climate. If the Babylonians didn't require rain during the summer, many of us do. And if "summer" (*t'kufat Tammuz*) is not regarded as a rainy season, why should Jewish communities in the southern hemisphere be required to pray for rain during their summer and *not* during their winter?

Third, all the sources we've read assume the fundamental difference between *rabim* and *y'hidim*. While *individuals* who need rain may always pray for it in *shome`a t'filah*, *birkat hashanim* is the proper place for *communities* – that is, regions – to utter the *bakashot* (petitions). Decisions about when "we" may pray for rain should therefore be made by communities and not by individual persons.¹² Having said this, we would add that we should use common sense to define "rabim." Rosh may be correct that Rambam (and R. Yehudah Hanasi, for that matter) understand that word to refer to the residents of an entire country (*eretz*). But let's remember the *purpose* behind this prayer: the meaning of "country" should be determined by climatological and not by political boundaries. For example, the United States encompasses at least nine distinct climatic regions,¹³ and it is likely that the "rainy season" (or the months during which rain is required) will be different in each of them. Again, if the *purpose* of *birkat hashanim* is to enable communities to pray for rain when they need it, we should follow geographical reality rather than political boundaries.

The question, ultimately, is whether we are obligated to preserve a *minhag*, even though when it runs afoul of the purpose behind a halakhic observance, a clear-headed reading of the relevant Talmudic sources, and simple common sense (*sekhel*), simply and solely because it *is* a *minhag*? Progressive halakhists should answer that question with a clear and resounding "no."

¹² Some will object that the sort of communal consensus we speak of here would in reality be difficult if not impossible to obtain. Fair point. We're speaking here, though, of possibilities and not practicalities, of what communities can and should do rather than what they are likely to do. It's a necessary first step toward change, even if the actual change will require much political work.

¹³ See "Geological Reference Maps," National Centers for Environmental Information, National Oceanic and Atmospheric Administration, <https://www.ncei.noaa.gov/access/monitoring/reference-maps/us-climate-regions> (accessed April 14, 2023).